IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.804 OF 2005.

Miss Shilpa Prakashchnd Balar
& ors. : Appellants.

versus

Mr.Ratanchand Gneshmal Balar
& ors. : Respondents.

Ms.Falguni Laheru for the appellants.
Ms.Anita Bhakatwani for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 13th September 2005.

ORAL ORDER

1. Heard advocates for the appellants and respondents. Looking to the issue involved, the matter is taken up for final hearing. The only grievance of the appellants is that the advocate who represented the appellants before the trial court did not properly draft the affidavit of attesting witnesses to the will and that was the main reason for which the petition came to be

dismissed.

2. A perusal of the impugned order shows that the prayer for probate was rejected because the appellants failed to prove due execution and attestation of the will. A copy of the affidavit of appellants , which was in substitution of oral evidence, is annexed at page 34. In view of this, the impugned judgment is required to be set aside. Hence the order :-

:ORDER:

The impugned judgment is set aside.

The matter is remanded to the trial Court where both the sides shall be given an opportunity to lead proper evidence and matter should be disposed of and decided on merits within six months from the receipt of this order.

Both the parties to appear before the trial Court on 18.10.2005.

[D.G.DESHPANDE,J]